

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

|                               |   |                                    |
|-------------------------------|---|------------------------------------|
| DAVID MONTGOMERY,             | ) | 3:15-CV-0178-HDM (VPC)             |
|                               | ) |                                    |
| Plaintiff,                    | ) | <b><u>MINUTES OF THE COURT</u></b> |
|                               | ) |                                    |
| vs.                           | ) |                                    |
|                               | ) |                                    |
| THE HARTFORD FINANCIAL        | ) |                                    |
| SERVICES GROUP, INC., et al., | ) |                                    |
|                               | ) |                                    |
| Defendants.                   | ) |                                    |
|                               | ) |                                    |

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PRESENT: THE HONORABLE VALERIE P. COOKE, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: LISA MANN REPORTER: NONE APPEARING

COUNSEL FOR PETITIONER(S): NONE APPEARING

COUNSEL FOR RESPONDENT(S): NONE APPEARING

**MINUTE ORDER IN CHAMBERS:**

The stipulation to extend the deadline for the Rule 16 hearing (#12) **GRANTED in part** and **DENIED in part**. The case management conference set for August 4, 2015 is hereby **VACATED**. However, the request for a stay of this case until the motion to dismiss is decided is **DENIED without prejudice**.

The explosion of Rule 12(b)(6) motions in the wake of *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 127 S.Ct. 1955, 167 L.Ed.2d 929 (2007), and *Ashcroft v. Iqbal* 556 U.S. 662, 129 S.Ct. 1937, 173 L.Ed.2d 868 (2009), has made speedy determinations of cases increasingly more difficult. Prohibiting or delaying all discovery will often cause unwarranted delay, especially if a pending dispositive motion challenges fewer than all of plaintiff's claims.

A stay of all discovery should only be ordered if the court is "convinced" that a plaintiff will be unable to state a claim for relief. However, as the court in *Mlejnecky v. Olympus Imaging America, Inc.*, 2011 WL 489743 at \*6 (E.D.Cal. Feb. 7, 2011) recognized, taking a "preliminary peek" and evaluating a dispositive motion puts a magistrate judge in an awkward position.

Rather, this court's role is to evaluate the propriety of an order staying or limiting discovery with the goal of accomplishing the objectives of Fed.R.Civ.P. Rule 1. With Rule 1 as its prime directive, this court must decide whether it is more just to speed the parties along in discovery and other proceedings while a dispositive motion is pending, or whether it is more just

to delay or limit discovery and other proceedings to accomplish the inexpensive determination of the case. *Tradebay, LLC v. Ebay, Inc.*, 278 F.R.D. 597, 603 (D.Nev. 2011).

With these principles in mind, one or both of the parties shall have leave to file a fully briefed motion to stay on or before **August 7, 2015**. If a motion to stay is not filed on or before this date, a case management conference shall be reset by the court for the next available date.

**IT IS SO ORDERED.**

LANCE S. WILSON, CLERK

By:                     /s/                      
Deputy Clerk